

September 9, 2005

Via website to the EPA EDOCKET:
<http://www.epa.gov/edocket>

U.S. Environmental Protection Agency
EPA West (Air Docket)
1200 Pennsylvania Avenue, NW,
Room: B108, Mail Code: 6102T
Washington, DC 20460

Attention: Docket No. OAR-2002-0094
National Emission Standards for Hazardous Air Pollutants; General Provisions
Proposed Amendments

The Aluminum Association, Inc. is the trade association for U.S. producers of primary aluminum, recyclers, and semi-fabricated aluminum products. Member companies operate more than 200 plants in 35 states. A number of these facilities may be impacted by the amendments to the NESHAP General Provisions as proposed in the Federal Register on July 29, 2005 (70 F.R. 43992).

The aluminum industry supports the proposed rule addressing startup, shutdown and malfunction (SSM) plans under the General Provisions (40 CFR part 63) for National Emission Standards for Hazardous Air Pollutants (NESHAP). These comments address our support for proposed provisions concerning the general duty clause to minimize emissions and the need for case-specific determinations for operational events that can supersede an SSM plan. We also agree with the determination in the proposal that neither EPA nor a permit authority is required to obtain SSM plans at the request of the public. Further, we agree that the section 114 mechanism under the CAA is an adequate means to address the collection of information for the public where merited and necessary.

General Duty Clause and Case-Specific SSM Occurrences

EPA notes in the preamble to the proposed rule that the general duty clause under 40 CFR part 63 requires that at all times, including SSM periods, owners and operators must operate and maintain affected sources to minimize emissions. This duty clause is interpreted by EPA in the proposal to essentially supersede provisions included in SSM plans where case-specific occurrences merit deviation from the SSM plan provisions. We agree with this interpretation.

For aluminum industry facilities, it is not possible to generate an SSM plan that addresses all potential occurrences and unforeseen events in a facility. Although the SSM plan is beneficial for overall development and preparation of SSM events, it is important to recognize that any event can require special response and unanticipated challenges to circumvent. Therefore, facilities need the flexibility to supersede the SSM plan. Furthermore, an SSM plan may not be a completely accurate outline of the necessary activities for a particular event.

As a result of the case-specific issues surrounding SSM events, it is important that EPA recognize that SSM plans are general guidance for facilities, and that they should not be a rigid requirement to follow in addressing SSM events. EPA is therefore correct in its interpretation in the proposal that SSM plans can be superseded by facilities carrying out the general duty clause to minimize emissions. Concerning recordkeeping and reporting, facilities must report when SSM plans are not followed for specific SSM events. EPA is thereby informed of those occurrences for the purpose of insuring the minimization of emissions.

SSM plans and Public Requests

EPA correctly notes in the proposal that public requests for review of SSM plans is neither reasonable nor necessary. The burden on permit authorities in reviewing thousands of plans, and on industry in providing those plans would be excessive for little if any environmental benefit. Given that SSM plans are, in effect, general guidance for a facility, and that the provisions may be altered or superseded by specific events, the SSM plans do not necessarily provide the public with beneficial information on a facility or its operations. Moreover SSM plans often refer to other operational documents in the facility and are therefore not readily useful to outside parties that are not trained in the other facility directives. We therefore agree with the EPA proposal that EPA and permit authorities are not required to obtain SSM plans at the request of the public.

Section 114 Information Requests


EPA notes in the proposal that the CAA section 114 information request mechanism provides the means for collecting necessary data from facilities to review SSM operations. We agree with this conclusion. As a result, EPA finds that the public request for SSM plans is adequately addressed by the preferred section 114 mechanism at far lower burdens to permit authorities and affected facilities.

The aluminum industry appreciates this opportunity to comment and for EPA's efforts to provide meaningful amendment to the NESHAP general provisions regarding SSM

EPA Air Docket
Docket No. OAR-2002-0094
September 9, 2005
Page 3

plans. Please contact my office (703 358-2980, bstriete@aluminum.org) if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert P. Strieter", is centered below the word "Sincerely,". The signature is fluid and cursive.

Robert P. Strieter
Vice President
Environment, Health & Safety

CC: Mark Mazanec, Baker & Hostetler